From: "Jocelyne Modine" <jmodine@bio.org>
To: <fb4p@oce.usda.gov>
Date: Mon, Dec 11, 2006 6:18 PM
Subject: Proposed Designation of Items - RIN#0503-AA32- BIO Comments

Dear Sir or Madam,

Please find attached the Biotechnology Industry Organization's (BIO) comments on the Designation of Biobased Items for Federal Procurement, Part II (RIN# 0503-AA32).

If you have any further questions or need additional information regarding these comments, please do not hesitate to contact me.

Sincerely,

Jocelyne Modine

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Bio
BIOTECHNOLOGY
INDUSTRY ORGANIZATION

VIA EMAIL

December 11, 2006

Mr. Marvin Duncan
USDA Office of the Chief Economist
Office of Energy Policy and New Uses,
Room 4059, South Building
1400 Independence Avenue, SW, MS-3815
Washington, DC 20250-3815

RE: Docket ID No. OEPNU-2006-0002-0004
Proposed Designation of Biobased Items for Federal Procurement
Part 2 (RIN # 0503-AA32)
Comments from the Industrial & Environmental Section of
the Biotechnology Industry Organization

Dear Mr. Duncan:

The Biotechnology Industry Organization (BIO) is the world's largest biotechnology trade association of companies and laboratories that use biological systems and methods for the production of medical, agricultural and industrial products. We wish to add our comments to the docket on USDA's Proposed Rulemakings for Round 4 of the designated items for Federal procurement [Federal Register, Volume 71, Number 196, Wednesday, October 11, 2006]. BIO has over 1,000 members in all 50 states and 37 foreign nations. BIO has taken an active role in assisting in the development of regulations and policies that affect the biotech industry both internationally and in the US. Its membership is global and represents a majority of the US biotechnology industry.

BIO's Industrial and Environmental Section (IES) was started in 1998 and this section represents life science, biotechnology and bio-industrial companies who apply biological solutions to help resolve important challenges in manufacturing and sustainable development. IES companies use enzymes, whole cell systems and other biologic processes to improve all types of manufacturing and chemical synthesis.

The BIO IES hereby submits comments on USDA's Proposed Rulemakings for Round 4 of designated items for federal procurement (RIN # 0503-AA32). As detailed below:

- **Including provisions for qualifying/designating biobased materials will accelerate the introduction of biobased products into the marketplace.**

BIO has submitted this comment on previous USDA proposed rulemakings but is taking the opportunity to resubmit it with the current proposed rulemaking for the public record. We continue to strongly urge USDA to incorporate a biomaterial pre-qualification process as a method to streamline the current final product designation process and to promote the

introduction of biobased materials and the products from which they are made into the marketplace.

The current USDA approach of designating final products for preferential procurement requires that individual products be tested for biobased content on a generic "item by item" basis. This process, by its design, requires a considerable amount time and resources.

Biobased products are made from biobased materials. Testing and qualifying biobased materials, the components and/or ingredients of biobased products, will greatly accelerate the designation process for preferential procurement. If a product is made from a prequalified biobased material, it is then a simple matter for the manufacturing of the bioproduct to provide information to USDA on its biobased composition. If verification of a manufacturer's supplied compositional information is needed, the ASTM biobased content test can always be conducted as needed.

Several material suppliers are making biobased materials that will literally be going into thousands of biobased products. As more and more of these materials are introduced into the marketplace, the current designation process could become a bottleneck. To simplify and expedite the designation process, it is recommended that USDA develop a program for prequalifying the biobased materials that will form the basis of the biobased products.

USDA has an opportunity to do this as part of the "USDA Certified" labeling program. By including biobased materials in the labeling program, biobased materials can be tested and certified as to their biobased content. With a list of prequalified biobased materials, manufacturers of final biobased products can select and use biobased materials based on their previously quantified biobased content and environmental profile. In addition, manufacturers will be able to identify and contact biomaterial suppliers for information on the performance characteristics and other information to determine the most appropriate biomaterials for their particular application. USDA can thus use the labeling program to expedite the development of biobased products consistent with the Congressional intent of the 2002 Farm Security and Rural Investment Act.

Recommendation: USDA should include biobased materials as part of the labeling program.

- **The provision for handling the "overlap with EPA Comprehensive Procurement Guidelines program for recovered content products" is reasonable.**

This proposed rulemaking contains, as do the past two rulemakings, an approach for dealing with the legislative overlap between "EPA-designated products" with recycled content and the current USDA preferential procurement program for biobased products.

The procurement decision to buy a "recycled content product" or a biobased product should be based on the application and the respective performances of the products in fulfilling the specific requirements of the application. There is a provision in the Farm Bill that "recycled content products" have priority in Federal procurement over the qualifying biobased product. USDA has appropriately proposed in this FR notice that additional information should be sought from manufacturers before procurement decisions are made. This information will enable the procurement process to determine "whether the biobased products in question are, or are not, the same products as the recovered content products".

A good example is the use of recycled carpet vs. carpet with biobased content. Carpets made with different materials will have different performance attributes. The desired performance characteristics should be developed first and then compared against the available products. A purchasing decision made strictly in favor of recycled carpet without evaluating performance information is not in the best interest of either the "recovered content" or the "biobased products" programs. An arbitrary decision that results in the purchase of the wrong product for an application will only impede its acceptance and reputation in the marketplace.

Recommendation: The USDA Preferential Procurement Guidelines for Biobased Products should be upgraded to include the proposal in this rulemaking for handling the "overlap" between the recycled content and biobased content programs.

- **The USDA proposal to encourage "Federal procurement agencies to examine all available information on the environmental and human health effects" is commendable.**

The above USDA proposed statement, which was specifically directed to cleaning products, should be extended to all "green purchasing" decisions. To fully compare products, it is imperative to take a life cycle assessment approach which quantifies "cradle to grave" impacts of the manufacture, use and disposal of products. One of the key environmental impact categories is greenhouse gas emissions. The potential for a product to contribute to GHG emissions should be assessed along with other key environmental impact categories. USDA's statement that "qualifying biobased products offer the user the opportunity to manage the carbon cycle and limit the introduction of new fossil carbon into the atmosphere while non-biobased products derived from fossil fuels add new fossil carbon to the atmosphere" is an important differentiation that should be part of the preferential procurement process.

Recommendation: The potential for reduced greenhouse gas emissions is a key differentiation for biobased products and USDA should continue to emphasize this point as part of the preferential procurement program.

- **USDA's proposed exemptions for critical applications should be unnecessary given the provisions of the current Guidelines.**

The current rulemaking contains the proposed exemptions included in the two previous rulemaking. As stated in previous comments, these exemptions are not necessary given the provisions in the guidelines. No product, biobased or not, should be used in any critical application if it does not meet performance requirements. One of the existing procurement criteria in the USDA Guidelines for Preferential Procurement of Biobased Products is performance. Currently, Federal agencies are not required to purchase biobased products if they do no meet their performance specifications. The problem with proposing an exemption that limits the use of biobased products to "more conventional applications" is that it carries the implication that biobased products are inferior in their performance characteristics to the incumbent product. Not only is this not the case, but it sends the wrong message regarding the potential benefits of and uses for biobased products. For example, DuPont is making 1,3, propanediol from a renewable feedstock by a biological process. This material is 100% biobased and is of extremely high purity. High-purity 1,3-propanediol, whether from a fossil feedstock or a renewable feedstock, is still 1,3-propanediol. The suitability of this chemical or others, regardless of the source, needs to be performance tested for the specific application, particularly if it is a critical application. Proposing an exemption from the use of biobased materials and products in critical applications is unnecessary per the current USDA Guidelines. As examples, in the current rulemaking, two of the items for designation are clothing products and de-icers.

USDA is proposing to exempt products with biobased content from "combat or combat-related applications". BIO is aware of applications in the clothing (military uniforms and other clothing) and de-icers (airport runways) where the introduction of a biobased ingredient into these products could result in not only equal performance but potentially enhanced performance. Performance testing is currently in progress to support the intended uses for these products. Recognizing that the biobased products industry is in its infancy, proposing exemptions for critical performance applications because there is a current lack of performance testing data to support some of these applications is both unnecessary, as discussed above, and counter to the intent of the Farm Bill of using federal procurement to pull biobased products into the marketplace.

- **USDA's proposal to set the minimum biobased content for clothing products at 6 % is reasonable at this time.**

Setting the initial minimum biobased content based at 6% recognizes that most clothing is not made from one fabric but instead are blends of materials. Blending allows fibers with different properties, natural and synthetic, to be woven together to meet specific performance requirements and to service a wide range of price points and markets. The production of clothing products containing qualified biobased materials and products is still very much in a development stage. This is certainly illustrated by the fact that USDA identified only three manufacturers and 5 individual biobased products for their biobased content determination. The proposed level will help stimulate the continued development of biobased clothing products.

Clothing products are an extremely broad "item". USDA defines clothing as "coverings for the torso and limbs, as well as coverings for the hands, feet and head". To meet this diversity of clothing types and performance needs, manufacturers use a variety of fibers and blends to achieve the desired level of protection.

For now, setting a 6% biobased content makes sense given the wide variety of products under this "item" designation. As USDA collects data from more manufacturers of biobased clothing, it may be useful to designate subcategories for clothing. Obtaining more data on clothing products will help USDA determine how best to set minimum biobased contents for this product and how to subcategorize this item. At this point, minimum biobased contents can be established at a subcategory level.

- **USDA's proposal to set the minimum biobased content for durable plastic films is not appropriate at this time.**

USDA has defined durable plastic films as products "typically used in the production of bags and packaging materials, and designed to resist water, ammonia and other compounds, and to not readily biodegrade." USDA is proposing a minimum biobased content of 61%. This is based on only "two different manufacturers producing two individual products". This is a very limited sample, and is not representative of the many applications for durable plastic films. This category covers many applications and the selection of specific polymers used to make these films is very dependent on performance requirements for the specific application. For example, durable plastic films are used for higher performance applications such as packaging for food. To achieve these performance requirements, durable films are often made from composites or layers of polymer films in order to meet the required barrier properties. They are multi-ingredient/multi-layered films. Setting a high minimum biobased content such as 61% will exclude these higher performance applications for the biobased polymers that will be used in these applications. The

minimum biobased content for some of these subcategories will be substantially lower that the one USDA is proposing.

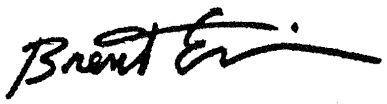
Recommendation: At this time, USDA should not be setting a minimum biobased content for a product category as complex and broad as durable plastic films. USDA needs to establish subcategories for this generic item and then establish minimum biobased contents for each of these subcategories.

Conclusion

The BIO IES generally supports USDA's efforts in the current proposed rulemaking designating biobased items for Federal procurement. Addressing the abovementioned comments will serve to further carry out the objectives for this program, specifically, to increase the demand for biobased products, to spur development of the industrial base through value-added agricultural processing, and to enhance the nation's energy security by substituting biobased products for products derived from imported oil and natural gas.

The BIO IES appreciates the opportunity to comment on this proposed rulemaking. If you have any further questions or need additional information regarding these comments, please contact Jocelyne Modine at 202-962-6641 or jmodine@bio.org.

Sincerely,



Brent Erickson
Vice President, BIO IES